

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 KAREN R. DENVIR  
Deputy Attorney General  
4 State Bar No. 197268  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5333  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-580**

13 **LORI LEE KERSEY**  
716 Harding Place  
Wheatland, California 95692

**ACCUSATION**

14 **Registered Nurse License No. 469106**

15 Respondent.

16  
17 Louise R. Bailey, M.Ed., RN (Complainant) alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Interim  
20 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
21 Affairs.

22 2. On or about August 31, 1991, the Board issued Registered Nurse License Number  
23 469106 to Lori Lee Kersey ("Respondent"). The license will expire on July 31, 2011, unless  
24 renewed.

25 ///

26 ///

27 ///

28 ///



1 8. Code section 2770.7 states, in relevant part, that:

2 (c) If the reasons for a current investigation of a registered nurse are based  
3 primarily on the self-administration of any controlled substance or dangerous drug or  
4 alcohol under Section 2762, or the illegal possession, prescription, or nonviolent  
5 procurement of any controlled substance or dangerous drug for self-administration  
6 that does not involve actual, direct harm to the public, the board shall close the  
7 investigation without further action if the registered nurse is accepted into the board's  
8 diversion program and successfully completes the requirements of the program. If the  
9 registered nurse withdraws or is terminated from the program by a diversion  
10 evaluation committee, and the termination is approved by the program manager, the  
11 investigation shall be reopened and disciplinary action imposed, if warranted, as  
12 determined by the board.

13 (d) Neither acceptance nor participation in the diversion program shall preclude  
14 the board from investigating or continuing to investigate, or taking disciplinary action  
15 or continuing to take disciplinary action against, any registered nurse for any  
16 unprofessional conduct committed before, during, or after participation in the  
17 diversion program.

18 . . . .

19 (f) Any registered nurse terminated from the diversion program for failure to  
20 comply with program requirements is subject to disciplinary action by the board for  
21 acts committed before, during, and after participation in the diversion program. A  
22 registered nurse who has been under investigation by the board and has been  
23 terminated from the diversion program by a diversion evaluation committee shall be  
24 reported by the diversion evaluation committee to the board.

25 9. Code section 2770.11 states, in pertinent part:

26 (b) If a committee determines that a registered nurse, who is denied  
27 admission into the program or terminated from the program, presents a threat to the  
28 public or his or her own health and safety, the committee shall report the name and  
license number, along with a copy of all diversion records for that registered nurse, to  
the board's enforcement program. The board may use any of the records it receives  
under this subdivision in any disciplinary proceeding.

### 21 COST RECOVERY

22 10. Code section 125.3 provides, in pertinent part, that the Board may request the  
23 administrative law judge to direct a licensee found to have committed a violation or violations of  
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
25 enforcement of the case.

26 ///

27 ///

**DRUGS**

11. "Norco" is a compound consisting of 10 mg. hydrocodone bitartrate, also known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet.

12. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate, also known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and 500 mg. acetaminophen per tablet.

13. "Marijuana" is a Schedule I controlled substance as designated by Health and Safety Code section 11054(d)(13).

14. "Ativan," a brand of lorazepam, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(13).

15. "Percocet," a brand of oxycodone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(N).

16. "Darvocet - N" is a compound consisting of propoxyphene napsylate, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(c)(2), and acetaminophen.

17. "Dilaudid," a brand of hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(K).

**RESPONDENT'S TERMINATION  
FROM BOARD'S DIVERSION PROGRAM**

18. Between September 9, 2004, and November 26, 2007, Respondent participated in the Board's Diversion Program. On or about November 26, 2007, Respondent was terminated from the Diversion Program as a public safety risk for failing to comply with the program, after admitting to diverting Norco from Kaiser Permanente, located in Roseville, California.

///

///

///

1 FIRST CAUSE FOR DISCIPLINE

2 (Falsified, Made Incorrect or Inconsistent Entries In Hospital or Patient Records)

3 19. Respondent is subject to discipline under Code section 2761(a), on the grounds of  
4 unprofessional conduct as defined in Code section 2762(e), in that while employed as a registered  
5 nurse at Kaiser Permanente, located in Roseville, California, Respondent falsified, made grossly  
6 incorrect, grossly inconsistent or unintelligible entries in hospital or patient records in the  
7 following respects:

8 Patient A:

9 a. On or about March 22, 2004, at 0710 hours, Respondent signed out two (2) 5 mg.  
10 tablets of Vicodin. At 0705 hours, Respondent falsified patient records by charting that she had  
11 administered two (2) Vicodin tablets to Patient A, when in fact, she did not.

12 b. On or about March 22, 2004, at 1051 hours, Respondent signed out two (2) 5 mg.  
13 tablets of Vicodin. At 1045 hours, Respondent falsified patient records by charting that she had  
14 administered two (2) Vicodin tablets to Patient A, when in fact, she did not.

15 Patient B:

16 c. On or about November 21, 2007, at 0737 hours, Respondent signed out two (2) 10  
17 mg. tablets of Norco. At 0730 hours, Respondent falsified patient records by charting that she  
18 had administered two (2) Norco tablets to Patient B, when in fact, she did not.

19 Patient C:

20 d. On or about November 21, 2007, at 0736 hours, Respondent signed out one (1) 10  
21 mg. tablet of Norco. At 0730 hours, Respondent falsified patient records by charting that she had  
22 administered one (1) Norco tablet to Patient C, when in fact, she did not.

23 2002 through 2004

24 e. Between 2002 through 2004, Respondent signed out unknown amounts of Ativan,  
25 Percocet, and Darvocet, for administration to various patients. Respondent falsified patient  
26 records by charting that she had administered the medications, when in fact, she did not.

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Furnished, Obtained, Possessed, and Self-Administered Controlled Substances)**

3 20. Respondent is subject to discipline under Code section 2761(a), on the grounds of  
4 unprofessional conduct as defined in Code section 2762(a), in that while employed as a registered  
5 nurse at Kaiser Permanente, located in Roseville, California, Respondent did the following:

6 **March 22, 2004**

7 a. Respondent furnished, to another, Vicodin, a controlled substance.

8 b. On or about March 22, 2004, Respondent obtained Vicodin, a controlled substance, .  
9 by fraud, deceit, misrepresentation or subterfuge or by the concealment of a material fact in  
10 violation of Health and Safety Code section 11173(a) when, while on duty, Respondent signed  
11 out Vicodin for the administration to various patients, but took it for her own personal use.

12 c. On or about March 22, 2004, Respondent possessed Vicodin, a controlled substance,  
13 in violation of Code section 4060, in that she did not have a prescription for that controlled  
14 substance.

15 d. On or about March 22, 2004, Respondent self-administered Vicodin, a controlled  
16 substance, without direction to do so from a licensed physician and surgeon, dentist or podiatrist.

17 **2002 through 2004**

18 e. On unknown dates between 2002 and 2004, Respondent furnished, to another,  
19 Ativan, Percocet, and Darvocet, all controlled substances.

20 f. On unknown dates between 2002 and 2004, Respondent obtained Ativan, Percocet,  
21 and Darvocet, all controlled substances, by fraud, deceit, misrepresentation or subterfuge or by  
22 the concealment of a material fact in violation of Health and Safety Code section 11173(a) when,  
23 while on duty, Respondent signed out the medications for the administration to various patients,  
24 but took them for her own personal use.

25 g. On unknown dates between 2002 and 2004, Respondent possessed Ativan, Percocet,  
26 and Darvocet, all controlled substances, in violation of Code section 4060, in that she did not  
27 have a prescription for those controlled substances.

28

1 h. On unknown dates between 2002 and 2004, Respondent self-administered Ativan,  
2 Percocet, and Darvocet, all controlled substances, without the direction to do so from a licensed  
3 physician and surgeon, dentist or podiatrist.

4 November 21, 2007

5 i. Respondent furnished, to another, Norco, a controlled substance.

6 j. Respondent obtained Norco, a controlled substance, by fraud, deceit,  
7 misrepresentation or subterfuge or by the concealment of a material fact in violation of Health  
8 and Safety Code section 11173(a) when, while on duty, Respondent signed out Norco for the  
9 administration to various patients, but took it for her own personal use.

10 k. Respondent possessed Norco, a controlled substance, in violation of Code section  
11 4060, in that she did not have a prescription for that controlled substance.

12 2007

13 l. On unknown dates in or about 2007, Respondent furnished, to another, Vicodin and  
14 Dilaudid, controlled substances.

15 m. On unknown dates in or about 2007, Respondent obtained Vicodin and Dilaudid,  
16 controlled substances, by fraud, deceit, misrepresentation or subterfuge or by the concealment of  
17 a material fact in violation of Health and Safety Code section 11173(a) when, while on duty,  
18 Respondent signed out Vicodin and Dilaudid for the administration to various patients, but took it  
19 for her own personal use.

20 n. On unknown dates in or about 2007, Respondent possessed Vicodin and Dilaudid,  
21 controlled substances, in violation of Code section 4060, in that she did not have a prescription  
22 for those controlled substances.

23 2009

24 o. In or about 2009, Respondent possessed Vicodin and Marijuana, controlled  
25 substances, in violation of Code section 4060, in that she did not have a prescription for those  
26 controlled substances.

1 p. In or about 2009, Respondent self-administered Vicodin and Marijuana, controlled  
2 substances, without the direction to do so from a licensed physician and surgeon, dentist or  
3 podiatrist.

4 PRAYER

5 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
6 and that following the hearing, the Board of Registered Nursing issue a decision:

7 1. Revoking or suspending Registered Nurse License Number 469106, issued to Lori  
8 Lee Kersey;

9 2. Ordering Lori Lee Kersey to pay the Board of Registered Nursing the reasonable  
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
11 Code section 125.3; and,

12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: \_\_\_\_\_

5/6/10

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

17  
18 SA2009102938  
10557189.doc  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28